

Summary – Protection of a forced heir and his disinheritance

Forced heir is a close relative of testator, who is provided by law with the privilege to be involved in estate in the extent to which the law determines even against the will of the testator. The testator is allowed to exclude this right of forced heir only by disinheritance.

The purpose of this thesis is to comprehensively describe issues of forced heir, their protection and disinheritance. In my thesis I highlight the changes arisen due to the new Civil Code but I also deal with the features of these institutes which were not affected by new concept and previous jurisprudence of higher courts can be used.

The thesis is composed of five chapters. In the first chapter I shortly define the term forced heir and disinheritance. Because the regulation of forced heir and disinheritance is very traditional in European law, in the second chapter I provide the historical background and development of these institutes. I describe rights of close relatives of testator in ancient Rome, the Middle Ages, and also in Civil Codes which come into existence in last century, but I focus mostly on Common Civil Code of 1811.

Current Czech legal regulation of forced heir and disinheritance is divided into third and fourth chapter because of clear arrangement. In the third chapter I pursue the persons of forced heir, forced share, calculation, collation and protection of rights of forced heir. Fourth chapter deal with the requisites of statement of disinheritance, consequence of disinheritance and legal reasons of disinheritance. In this chapter I pursue also an incapacity to inherit and a negative testament which are closely related with disinheritance and I compare which features are similar to disinheritance and what is a difference between them. In the third and fourth chapter are also sketched out some problems linked to use of current legal regulation and outlined several opinions about their solutions.

Last fifth chapter is dedicated to comparison of current Czech adaptations with adaptations in neighbour states, specifically in Poland and Germany.